

STATE OF ALASKA THE LEGISLATURE

2010

Source
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**Legislative
Resolve No.**
43



Urging the Governor to exercise all available legal options to restrain the United States Department of the Interior, National Park Service, from intruding on the sovereign right of the state to exercise jurisdiction over navigable water and submerged land and urging the Governor to allocate sufficient resources to the Department of Law, the Department of Natural Resources, and the Department of Fish and Game to defend the state's right to manage the public use of its navigable water.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS, under the equal footing doctrine, the Alaska Statehood Act, and 43 U.S.C. 1301 - 1315 (Submerged Lands Act of 1953), the state assumed ownership of all submerged land of navigable waterways within the boundaries of the state and all land permanently or periodically covered by tidal water between the line of mean high tide and seaward to a line three geographical miles from the coastline of the state, except for submerged land specifically reserved by the United States Congress; and

WHEREAS the state acquired full power and control over the navigable water of the

state for use of watercraft, placer mining, recreation, commerce, and many other public uses, regardless of the upland ownership, except where the United States Congress specifically limited the state's authority; and

WHEREAS the Constitution of the State of Alaska, state statutes, and state regulations clearly address and reiterate state ownership of and the power of the state to manage its submerged land and navigable water, and the people of the state have free and unrestricted access unless restricted by state law; and

WHEREAS the Alaska National Interest Lands Conservation Act clearly states that regulations adopted for the management of conservation system units such as national parks apply only to federal land within those units; and

WHEREAS the United States Department of the Interior, National Park Service, began regulating public use of navigable waterways in 1996 and thereby usurped the state's sovereign management of the public use of those navigable waterways; and

WHEREAS, as a result of its incursion on state authority, the United States Department of the Interior, National Park Service, has directly affected the people of the state in a number of ways, including prohibiting the use of certain types of watercraft that are authorized by the state, requiring commercial riverboat operators and dog mushing tours to secure federal permits, and restricting the methods and means used in the recreational and subsistence fisheries; and

WHEREAS the United States Department of the Interior, National Park Service, continues to expand the restrictions on the public use of navigable water of the state, thereby voiding the state's legitimate authority and jurisdiction; and

WHEREAS the state has tried unsuccessfully for 12 years to resolve administratively the issue of state authority over submerged land and navigable water;

BE IT RESOLVED that the Alaska State Legislature urges the Governor to exercise all available legal options to restrain the United States Department of the Interior, National Park Service, from intruding on the sovereign right of the state to exercise jurisdiction over submerged land and navigable water; and be it

FURTHER RESOLVED that the Alaska State Legislature urges the Governor to allocate adequate resources to the Department of Law, the Department of Natural Resources, and the Department of Fish and Game to defend and advocate for the state's right to manage

the public use of its navigable water.